

**Service Agreement No. 58812  
Playground Equipment and Installation Phase 2 & 3  
at Manuel Q. Salinas Park**

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**THIS Playground Equipment and Installation Phase 2 & 3 at Manuel Q. Salinas Park Service Agreement ("Agreement") is entered into by and between ExerPlay Inc. ("Contractor") and the City of Corpus Christi, a Texas home-rule municipal corporation ("City"), by and through its duly authorized City Manager or designee ("City Manager"), effective for all purposes upon execution by the City Manager.**

**WHEREAS, Contractor has bid to provide playground equipment to include all associated material and installation for phase 2 and 3 at Manuel Q. Salinas Park;**

**NOW, THEREFORE, Contractor and City enter into this Agreement and agree as follows:**

- 1. Services.** Contractor will deliver and install playground equipment and all associated material for Phase 2 & 3 at Manuel Q. Salinas Park ("**Services**") **in accordance with this Agreement including all attachments and exhibits, which are incorporated by reference into this Agreement.**
- 2. Term.** This Agreement takes effect upon execution of the City Manager and issuance of a notice to proceed and will continue for eight months.
- 3. Compensation and Payment.** This Agreement is for an amount not to exceed \$202,129.15, subject to validly authorized extensions and changes. Payments will be allowed in accordance with Attachment "B" Schedule of Pricing. Payment terms are net 30 days after the goods are provided or services are completed, as required or a correct invoice is received, whichever is later.
- 4. Contract Administrator.** The contract administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement including deductions for non-performance and authorizations for payment. All of the Contractor's notices or communications regarding this Agreement must be directed to the contract administrator, who is the Park & Recreation Superintendent or designee ("**Contract Administrator**").
- 5. Independent Contractor.** Contractor will perform the Services as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions may any agent, servant or employee of the Contractor be considered an employee of the City.

## **6. Insurance; Bonds.**

- (A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the city will be given at least 30 days' advance written notice of cancellation, material change in the coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if full set out here in its entirety.
- (B) In the event a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were set out here in its entirety.

**7. Inspection and Acceptance.** Any Services that are provided but not accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.

## **8. Warranty.**

- (A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

**9. Assignment.** No assignment of this Agreement or of any right or interest contained in this Agreement by the Contractor is effective unless the City first gives its written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City's right to withhold consent to such assignment is within the sole discretion of the City on any ground whatsoever.

**10. Fiscal Year.** All parties recognize that the continuation of any contract after the close of any fiscal year of the City (the City's fiscal year ends on September 30th) is subject to appropriations and budget approval providing for covering such contract item as an expenditure in the budget. The City does not represent that said budget

item will be actually adopted, as that determination is within the sole discretion of the City Council at the time of adoption of each budget.

- 11. Waiver.** No waiver of any breach of any term or condition of this Agreement, its attachments and exhibits, or the Contractor's response to the RFP ("Exhibit 1"), which exhibit is incorporated into this Agreement, waives any subsequent breach of the same.
- 12. Governing Law.** This Agreement is subject to all applicable federal, state and local laws, rules and regulations. All duties of the parties will be performed in the City of Corpus Christi, Texas. The applicable law for any legal disputes arising out of this Agreement is the law of Texas and such form and venue for such disputes is the appropriate district, county or justice court in and for Nueces County, Texas.
- 13. Federally Funded Project.** This project is subject to Federal Funding. A set of Federal Requirements have been attached as Attachment D for inclusion in this Agreement. The Contractor must be in compliance with these requirements will performing work under this Agreement. The Contractor will insert in any subcontracts all Federal Provisions/Requirements contained in this contract and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses.
- 14. Subcontractors.** The Contractor may use subcontractors in connection with the Services to be performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the Contract Administrator. In using subcontractors, the Contractor shall be responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the Services.
- 15. Amendments.** This Agreement may be amended only in writing and upon execution by authorized representatives of both parties.
- 16. Termination.** The City Manager may terminate this Agreement for Contractor's failure to perform the Services specified in Exhibit A. Failure to keep all insurance policies in force for the entire term of this Agreement is grounds for termination. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

Alternatively, the City Manager may terminate this Agreement without cause upon 30 days' written notice to the Contractor. However, the City may terminate this Agreement upon three days' written notice to the Contractor for Contractor's failure to pay or provide proof of payment of taxes, as set out in this Agreement.

**17. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes in accordance with Circular E, "Employer's Tax Guide", Publication 15, as it may be amended. Upon his request, the City Manager shall be provided proof of payment of one or more of these taxes within 15 days of such request.

**18. Notice.** Notice may be given by hand delivery or certified mail, postage prepaid, and is received on the day faxed or hand-delivered and on the third day after deposit in the U.S. mail if sent certified mail. Notice shall be sent as follows:

**IF TO CITY:**

**City of Corpus Christi**

**Attention: Joshua Wentworth**

**1201 Leopard Street 3<sup>rd</sup> Floor Park & Recreation**

**Corpus Christi, Texas 78401**

**Phone: (361) 826-3483**

**Fax: (361) 826-3174**

**IF TO CONTRACTOR:**

<b>Contractor</b>	<b><u>ExerPlay Inc.</u></b>
<b>Contact</b>	<b><u>Charles DeBuck</u></b>
<b>Address:</b>	<b><u>12001 N Hwy 14</u></b>
<b>City, State,</b>	<b><u>Cedar Crest, NM, 87008</u></b>
<b>Phone:</b>	<b><u>(800) 457-5444</u></b>
<b>Fax:</b>	<b><u>(505) 281-0155</u></b>

**19. Severability.** Each provision of this Agreement shall be considered to be severable and if, for any reason, any such provision or any part thereof, is determined to be invalid and contrary to any existing or future applicable law, such invalidity shall not impair the operation of or affect those portions of this Agreement that are valid, and this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part thereof had been omitted.

**20. Verification Regarding Israel.** In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for goods or services unless the contract contains a written verification form from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of the contractor verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

**21. CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER**

NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY OF SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

**22. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

**CONTRACTOR**

Signature: Sarah Love

Printed Name: Sarah Love

Title: Contract Administrator

Date: 04/06/18

**CITY OF CORPUS CHRISTI**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attached and Incorporated by Reference:**

Attachment A: Scope of Work

Attachment B: Schedule of Pricing

Attachment C: Insurance/Bond Requirements

Attachment D: Federal Requirements

## **Attachment A: Scope of Work**

### **1.1. Scope of Work**

A. Company will provide equipment and installation on selected playground equipment, shade structure and pour in place fall surfacing at Manuel Q. Salinas Park located at 1354 Airport Rd., Corpus Christi, Texas 78415:

- 1) Installation of playgrounds will include
  - (a) Grading for base installation for pour in place surfacing
  - (b) Installation of playground per manufactures instructions
- 2) Installation of a 3200 square foot compacted aggregate base
  - (a) all material and work to complete compacted aggregate base
  - (b) all material and work to complete clean up.
- 3) Installation of 3200 SF at required depth per fall height of one poured in place rubber pad including
  - (a) all material and work to complete mixing of bonding agent and rubber surfacing
  - (b) all material and work to complete placement of pour in place rubber pad
- 4) Installation of 50' X 74' hip shade structure with 14' entry height
  - (a) Installation of playground per manufactures instructions
- 5) Posting of Community Development Block Grant project sign for duration of project
- 6) All material and work to complete clean up

### **1.2. Installation Phase**

All installation shall be in accordance with the Public Playground Safety Handbook latest edition produced by the U.S. Consumer Product Safety Commission.

# Attachment B: Bid/Price Schedule

PO Box 1160  
Cedar Crest NM 87008-1160  
Fax 505.281.0155  
Toll Free 800.457.5444  
www.exerplay.com



DATE NUMBER  
2/12/2018 MM020718-5

## QUOTATION

Quote Prepared for:

Purchase Order to be Issued To:

City of Corpus Christi  
Manuel Salinas

Exerplay, Inc.  
PO Box 1160  
Cedar Crest, NM 87008-1160  
Please fax a copy to Exerplay:505-281-0155

SHIPPED VIA	TERMS	REP	FOB	EST. SHIP DATE
Common Carrier	Net 30	CD	CorpusChristi	6 - 8 Wks ARO
ITEM	DESCRIPTION	QTY	COST	TOTAL
	Manuel Salinas Park Phases 2 & 3 Corpus Christi, TX			
	PHASE 2 LANDSCAPE STRUCTURES			
Shade	50' x 74' Extended Super Hip SHade Structure, 14' Entry	1	48,363.00	48,363.00
BuyBoard	Contract #512-16, 5%		-2,418.15	-2,418.15
Freight	Freight/shipping charges (111723)		1,175.00	1,175.00
Install	Installation of Shade Structure		47,734.00	47,734.00
	PHASE 3 LANDSCAPE STRUCTURES			
PlayBooster	Per Drawing #16081E, Cargo Net Climber and (4) Digifuse Panels	1	10,725.00	10,725.00
177332A	Single Post Swing Frame 8' Beam Height Only	1	1,115.00	1,115.00
177333A	Single Post Swing Frame Additional Bay 8' Beam Height Only	1	835.00	835.00
174018A	Belt Seat w/Chains ProGuard Chains for 8' Beam Height	2	110.00	220.00
177351A	Molded Bucket Seat (5-12 yrs) w/Harness & Chains ProGuard Chains for 8' Beam Height	2	710.00	1,420.00
173592A	Oodle® Swing	1	4,700.00	4,700.00
PlayBooster	Per Drawing #160817E	1	15,560.00	15,560.00
141683E	TenderTuff™ Bench 92" w/Back, w/o Armrests, DB	1	535.00	535.00
BuyBoard	Contract #512-16, 5%		-1,755.50	-1,755.50
Freight	Freight/shipping charges (150-86-18)		2,340.00	2,340.00
	FLEXITURF			
PIP	Poured-in-Place, 4" Thickness in Swing Area, 2" Thickness at Playground Area, 100% Color, 3200 SqFt, Delivered and Installed		40,480.00	40,480.00
BuyBoard	Contract #512-16, 5%		-2,215.20	-2,215.20
Install	Installation of Playground Equipment		13,167.00	13,167.00
Sub Base	3200 sqft Compacted Aggregate and 165 lf Concrete Curbing		14,919.00	14,919.00

Quote prepared by Michelle Mckean  
michelle@exerplay.com

Page 1 of 2

**TOTAL**



PO Box 1160  
Cedar Crest NM 87008-1160  
Fax 505.281.0155  
Toll Free 800.457.5444  
www.exerplay.com



DATE                      NUMBER  
2/12/2018              MM020718-5

## QUOTATION

### Quote Prepared for:

### Purchase Order to be Issued To:

City of Corpus Christi  
Manuel Salinas

Exerplay, Inc.  
PO Box 1160  
Cedar Crest, NM 87008-1160  
Please fax a copy to Exerplay:505-281-0155

SHIPPED VIA	TERMS	REP	FOB	EST. SHIP DATE
Common Carrier	Net 30	CD	CorpusChristi	6 - 8 Wks ARO

ITEM	DESCRIPTION	QTY	COST	TOTAL
Sign	CDBG Project Sign		300.00	300.00
Bond	Performance/Payment Bond		4,930.00	4,930.00

Notes I              Pricing is for the above listed equipment and installation only and does not include off loading of equipment at time of delivery, storage, security, site preparation, security fencing, or any applicable permits.

-Plywood will be set in place to minimize damage to existing safety surfacing, in the event of damage to existing surfacing, it will be repaired by the surfacing installers

-Access for heavy equipment must be available

Pricing is good for 90 days.

## Attachment C: Insurance and Bond Requirements

### I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Contract Administer one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	<b>Bodily Injury and Property Damage</b> Per occurrence - aggregate
<b>COMMERCIAL GENERAL LIABILITY</b> including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
<b>AUTO LIABILITY</b> (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
<b>WORKERS'S COMPENSATION</b> (All States Endorsement if Company is not domiciled in Texas)  Employers Liability	Statutory and complies with Part II of this Exhibit.  \$500,000/\$500,000/\$500,000
<b>INSTALLATION FLOATER</b>	Value of the equipment

- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi  
Attn: Risk Manager  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

- D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
  - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
  - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
  - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.

- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2018 Insurance Requirements  
Parks and Recreation  
Park Equipment and Installation  
01/18/2018 sw Risk Management

00 61 16      PAYMENT BOND

BOND NO. \_\_\_\_\_

<b>Contractor as Principal</b> Name: Mailing address ( <i>principal place of business</i> ):	<b>Surety</b> Name: Mailing address ( <i>principal place of business</i> ):  Physical address ( <i>principal place of business</i> ):
<b>Owner</b> Name: City of Corpus Christi, Texas Mailing address ( <i>principal place of business</i> ): Purchasing Division 1201 Leopard Street 4 <sup>th</sup> Floor Corpus Christi, Texas 78401	Surety is a corporation organized and existing under the laws of the state of:  <i>By submitting this Bond, Surety affirms its authority to do business in the State of Texas and its license to execute bonds in the State of Texas.</i>
<b>Contract</b> Project name and number: 58812 - Playground Equipment and Installation Phase 2 & 3 at Manuel Q. Salinas Park  Award Date of the Contract: _____, 2018 Contract Price: \$202,129.15	Telephone ( <i>main number</i> ):  Telephone ( <i>for notice of claim</i> ):  Local Agent for Surety Name: Address:  Telephone: E-Mail Address:
<b>Bond</b> Date of Bond: ( <i>Date of Bond cannot be earlier than Award Date of Contract</i> ) Said Principal and Surety have signed and sealed this instrument in 4 copies, each one of which shall be deemed an original.	<b><i>The address of the surety company to which any notice of claim should be sent may be obtained from the Texas Dept. of Insurance by calling the following toll-free number: 1-800-252-3439</i></b>

***Surety and Contractor, intending to be legally bound and obligated to Owner do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent or representative. The Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally to this bond. The condition of this obligation is such that if the Contractor as Principal pays all claimants providing labor or materials to him or to a Subcontractor in the prosecution of the Work required by the Contract then this obligation shall be null and void; otherwise the obligation is to remain in full force and effect. Provisions of the bond shall be pursuant to the terms and provisions of Chapter 2253 and Chapter 2269 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein. Venue shall lie exclusively in Nueces County, Texas for any legal action.***

**Contractor as Principal**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Surety**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 (Attach Power of Attorney and place surety seal below)

**END OF SECTION**

00 61 13

## PERFORMANCE BOND

BOND NO. \_\_\_\_\_

<b>Contractor as Principal</b> Name: Mailing address ( <i>principal place of business</i> ):	<b>Surety</b> Name: Mailing address ( <i>principal place of business</i> ):  Physical address ( <i>principal place of business</i> ):
<b>Owner</b> Name: City of Corpus Christi, Texas Mailing address ( <i>principal place of business</i> ): Purchasing Division 1201 Leopard Street 4 <sup>th</sup> Floor Corpus Christi, Texas 78401	
<b>Contract</b> Project name and number: 58812 - Playground Equipment and Installation Phase 2 & 3 at Manuel Q. Salinas Park  Award Date of the Contract: _____, 2018 Contract Price: \$202,129.15	Surety is a corporation organized and existing under the laws of the state of:  <i>By submitting this Bond, Surety affirms its authority to do business in the State of Texas and its license to execute bonds in the State of Texas.</i>
	Telephone ( <i>main number</i> ):  Telephone ( <i>for notice of claim</i> ):
<b>Bond</b> Date of Bond: <i>(Date of Bond cannot be earlier than Award Date of the Contract)</i> <i>Said Principal and Surety have signed and sealed this instrument in 4 copies, each one of which shall be deemed an original.</i>	Local Agent for Surety Name: Address:  Telephone: E-Mail Address:
	<i><b>The address of the surety company to which any notice of claim should be sent may be obtained from the Texas Dept. of Insurance by calling the following toll-free number: 1-800-252-3439</b></i>

***Surety and Contractor, intending to be legally bound and obligated to Owner do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative. The Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally to this bond. The condition of this obligation is such that if the Contractor as Principal faithfully performs the Work required by the Contract then this obligation shall be null and void; otherwise the obligation is to remain in full force and effect. Provisions of the bond shall be pursuant to the terms and provisions of Chapter 2253 and Chapter 2269 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein. Venue shall lie exclusively in Nueces County, Texas for any legal action.***

**Contractor as Principal**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Surety**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

*(Attach Power of Attorney and place surety seal below)*

**END OF SECTION**



Attachment D – Federal Requirements  
**FEDERAL REQUIREMENTS**

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<b>Section No.</b>	<b>Title</b>
FR-01	Breach of Contract Terms
FR-02	Termination of Contract
FR-03	Equal Employment Opportunity - 41 CFR Part 60-1.4(b)
FR-04	Standard Federal Equal Employment Opportunity Construction Contract Specifications – 41 CFR Part 60.4.3
FR-05	Copeland Anti-Kickback Act 29 CFR Part 5
FR-06	Davis-Bacon Labor Requirements 29 CFR part 5
FR-07	Contract Work hours and Safety Standards Act Requirements
FR-08	Regulations Pertaining to Reporting
FR-09	Rights to Inventions
FR-10	Access to Records and Record Retention
FR-11	Clean Air and Water Pollution Control
FR-12	Energy Conservation Requirements
FR-13	Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
FR-14	Lobbying and Influencing Federal Employees
FR-15	Economic Opportunities for Low and Very-Low Income Persons
FR-16	Affirmative Action Regulations and Plan
FR-17	Women and Minority Owned Businesses (M/WBE)
FR-18	Accessibility Section 504 Compliance
FR-19	Texas Architectural Barriers Act
FR-20	Drug-Free Workplace Requirements
FR-21	Field Requirements

**FEDERAL REQUIREMENTS: FR-01**

**BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor as provided in 29 CFR 5.12.

## **FEDERAL REQUIREMENTS: FR-02**

### **TERMINATION OF CONTRACT**

- a. The City may, by written notice, terminate this contract in whole or in part at any time, either for the City's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the City.
- b. If the termination is for the convenience of the City, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the contractor's obligations, the City may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the City for any additional cost occasioned to the City thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, adjustment in the contract price shall be made as provided in this clause.
- e. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

*Reference: 49 CFR Part 18.36(i)(2)*

## **FEDERAL REQUIREMENTS: FR-03**

### **EQUAL EMPLOYMENT OPPORTUNITY - Executive Order 11246 as amended, 41 CFR** **PART 60-1.4(b)**

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representatives of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provision, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by

SEC. 203. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

Contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

The Secretary of Labor may direct that any contractor or subcontractor shall submit, as part of his/her Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

[Sec. 203 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p.230

*Reference: Executive Order 11246 & Title 41 CFR Part 60 -1.4*

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION  
CONTRACT SPECIFICATIONS - 41 CFR Part 60.4.3**

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

d. "Minority" includes:

(1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 18.7a through 18.7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract

Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least

once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (18.7a through 18.7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 18.7a through 18.7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the



effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 18.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

*Reference: Executive Order 11246 & Title 41 CFR Part 60 – 4.3*

**COPELAND "ANTI-KICKBACK" ACT – 18 U.S.C. 874 / 40 U.S.C. 276c / 29 CFR Part 3**

**Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.**

**TITLE 18, U.S.C.**

**Sec. 874. Kickbacks from public works employees**

"Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

[18 U.S.C. 874 (June 25, 1948, ch. 645, Sec. 1, 62 Stat. 740, eff. Sept. 1, 1948) replaces the former sec. 1 of the Copeland Act of June 13, 1934 (48 Stat. 948), which was codified as 40 U.S.C. 276b prior to its repeal by 62 Stat. 862, eff. Sept. 1, 1948.]

**TITLE 40, U.S.C. (as amended)**

**Sec. 276c, Regulations governing contractors and subcontractors**

"The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure) shall apply to such statements."

[40 U.S.C. 276c, as amended (48 Stat. 948 as amended by 62 Stat. 862, 63 Stat. 108, and 72 Stat. 967) constitutes the Copeland Act in its present form, which is a revision of section 2 of the original Act of June 13, 1934, section 1 of the original Act was repealed coincidentally with its replacement by 18 U.S.C. 874, set out above.]

*Reorganization Plan No. 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z note):*

"In order to assure coordination of administration and consistency of enforcement of the labor standards provision of each of the [foregoing and other enumerated] Acts by the Federal agencies responsible for the administration thereof, the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by these agencies, and cause to be made by the Department of Labor such investigations, with respect to compliance with and enforcement of such labor standards, as he deems desirable, ..."

**FEDERAL REQUIREMENTS: FR-06**

**FEDERAL LABOR STANDARDS PROVISIONS (HUD 4010)**

**DAVIS - BACON REQUIREMENTS**

**Compliance with Davis-Bacon and Related Act Requirements: All rulings and interpretations of the Davis-Bacon and Related Acts Contained in 29 CFR Parts 1, 3 and 5 are herein incorporated by reference.**

For additional information regarding Labor Rates, please go to the following United States Department of Labor website:

<http://www.dol.gov/whd/contracts/dbra.htm>

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**1. (i) Minimum Wages** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

**(ii) (a)** Any class of laborers or mechanics, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 12150140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 12150140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB control number 12150140.)

## **2. Withholding.**

HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The

Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be maintained under CFR 5.5(a)(3)(i) above and that such information is correct and complete;

**(2)** That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3.(i) available for inspection, copying or transcription by authorized representatives of HUD or its designee, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman

wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal Employment Opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

## **5. Compliance with Copeland Act Requirements.**

The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes Concerning Labor Standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded. Government contracts by virtue of section 3(a) of the Davis- Bacon Act or 29 CFR 5.12(a) (1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CF Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S. Criminal 1001. Additionally, U.S. Criminal Code Section 1 01 0, Title 18, U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C, "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of ..... influencing in any way the action of such Administration....makes, utters or publishes any statement

knowing the same to be false.....shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provision of this Contract are applicable shall be discharged or in any other manner discrimination against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

*Reference: Title 29 CFR Part 5.5*

## **WAGE RATES**



General Decision Number: TX180031 01/05/2018 TX31

Superseded General Decision Number: TX20170031

State: Texas

Construction Type: Heavy

Counties: Nueces and San Patricio Counties in Texas.

HEAVY CONSTRUCTION PROJECTS (including Sewer and Water Line Construction and Drainage Projects)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/05/2018

\* SUTX1987-001 12/01/1987

	Rates	Fringes
CARPENTER (Excluding Form Setting).....	\$ 9.05	
Concrete Finisher.....	\$ 7.56	
ELECTRICIAN.....	\$ 13.37	2.58
Laborers:		
Common.....	\$ 7.25	
Utility.....	\$ 7.68	
Power equipment operators:		
Backhoe.....	\$ 9.21	
Motor Grader.....	\$ 8.72	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the

Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**FEDERAL REQUIREMENTS: FR-07**

**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT REQUIREMENTS**  
**29 CFR PART 5**

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**(2) Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this paragraph.

**(4) Subcontractors.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this paragraph and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**(5) Health and Safety.** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

**The Contractor shall include the provisions of this para-graph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary**

*Reference: 29 CFR Part 5.5 & Advisory Circular 150/5100-6d*

**REGULATIONS REGARDING REPORTING**

**INSTRUCTIONS HUD FORM 2516**

This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multifamily Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance. Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

**Section 3**

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD- 60002 to report employment and training opportunities data. Form HUD-2516 is to be may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons means low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Submit two (2) copies of this report to your local HUD Office within ten (10) days after the end of the reporting period you checked in item 4 on the front.

**Community Development Programs**

**1. Grantee:** Enter the name of the unit of government submitting this report.

**2. Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.

**3. Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.

**7a. Grant Number:** Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.

**7b. Amount of Contract/Subcontract:** Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number is provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.

**7c. Type of Trade:** Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number is provided in 7f., the type of trade code would be for the subcontractor only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education/training activities.

**7d. Business Racial/Ethnic/Gender Code:** Enter the numeric code which indicates the racial/ethnic /gender character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic/ gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Enter the Employer (IRS) Number of the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Enter this information for each **A Section 3 contractor/subcontractor** is a business concern that provides economic opportunities to low- and very low-income residents of the metropolitan area (nonmetropolitan county), including a business concern that is 51 percent or more owned by low- or very low-income residents; employs a substantial number of low- or very low-income residents; or provides subcontracting or business development opportunities to businesses owned by low- or very low-income residents. Low- and very low-income residents include participants in Youth build programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act. The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b) (2) of the United States Housing Act of 1937.

Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or similar and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

## **INSTRUCTIONS FOR: FORM HUD-60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.**

**Instructions:** This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any ***public and Indian housing programs*** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts, which are to be completed for all programs covered by Section 3. Part I relates to ***employment and training***. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F). Part II of the form relates to ***contracting***, and Part III summarizes recipients' ***efforts*** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.\* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required,

this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office name.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.
8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

### **Part I: Employment and Training Opportunities**

**Column A:** Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

**Column B: (Mandatory Field)** Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column C: (Mandatory Field)** Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column D:** Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

**Column E:** Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

**Column F: (Mandatory Field)** Enter the number of Section 3 residents that were trained in connection with this award.

### **Part II: Contract Opportunities**

#### **Block 1: Construction Contracts**

**Item A:** Enter the total dollar amount of all contracts awarded on the project/program.

**Item B:** Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

**Item C:** Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

**Item D:** Enter the number of Section 3 businesses receiving awards.

#### **Block 2: Non-Construction Contracts**

**Item A:** Enter the total dollar amount of all contracts awarded on the project/program.

**Item B:** Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

**Item C:** Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

**Item D:** Enter the number of Section 3 businesses receiving awards.

### **Part III: Summary of Efforts – Self -explanatory**

Submit one (1) copy of this report to the HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in item 8. PHAs/IHAs are to report all contracts/subcontracts.



\* The terms “low-income persons” and very low-income persons” have the same meanings given the terms in section 3 (b) (2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary’s findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

OMB Approval No.: 2535-0117 (exp. 12/31/2006)

Privacy Act Notice – The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701j-7(f)(1) et seq., and regulations promulgated there under at Title 12, Code of Federal regulations. It will not be disclosed or released outside the United States Department of Housing and Urban Development without your consent, except as required or permitted by law.

**CPD:**

3= Other

6= HUD-Field (Management)

**Type of Trade Codes**

**Housing/Public Housing:**

3= Repair

4= Service

5= Project Mangt.

0= Other

8= Education/Training

9= Arch./Engng. Appraisal

3= Native Americans

4= Hispanic Americans

5= Asian/Pacific Americans

6= Hasidic Jews

**3= Section 8 Noninsured, Non-HFDA**

**4= Insured (Management)**

**7= Public/Indian Housing**

**5. Program Codes (Complete for Housing and Public and Indian Housing)**

**7.0 = National/State Codes.**

## Section 3 Summary Report

### Economic Opportunities for Low – and Very Low-Income Persons

U.S. Department of Housing  
and Urban Development  
Office of Fair Housing  
And Equal Opportunity

OMB Approval No: 2529-0043  
(exp. 11/30/2010)

**HUD Field Office:**

Section back of page for Public Reporting Burden statement

**HUD Field Office:**

1. Recipient Name & Address: (street, city, state, zip)	2. Federal Identification: (grant no.)	3. Total Amount of Award:
	4. Contact Person	5. Phone: (Include area code)
	6. Length of Grant:	7. Reporting Period:
8. Date Report Submitted:	9. Program Code: (Use separate sheet for each program code)	10. Program Name:

**Part I: Employment and Training** (\*\* Columns B, C and F are mandatory fields. Include New Hires in E &F)

A	B	C	D	E	F
Job Category	Number of New Hires	Number of New Hires that are Sec. 3 Residents	% of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	% of Total Staff Hours for Section 3 Employees and Trainees	Number of Section 3 Trainees
Professionals					
Technicians					
Office/Clerical					
Construction by Trade (List Trade)					
Trade					
Trade					
Trade					
Trade					
Other (List)					
Total					

\* Program Codes  
1 = Flexible Subsidy  
2 = Section 202/811

3 = Public/Indian Housing  
A = Development,  
B = Operation  
C = Modernization

4 = Homeless Assistance  
5 = HOME  
6 = HOME State Administered  
7 = CDBG Entitlement

8 = CDBG State Administered  
9 = Other CD Programs  
10 = Other Housing Programs

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**Part II: Contracts Awarded**

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## 1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

## 2. Non-Construction Contracts:

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- ☐ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- ☐ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- ☐ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- ☐ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- ☐ Other; describe below.

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Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

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**FEDERAL REQUIREMENTS: FR-9**

**RIGHTS TO INVENTIONS**

All rights to inventions and materials generated under this contract are subject to regulations issued by HUD or its designee and the Sponsor of the Federal grant under which this contract is executed.

*Reference: Title 49 CFR Part 18.36(i)(8)*

## **FEDERAL REQUIREMENTS: FR-10**

### **ACCESS TO RECORDS AND RECORD RETENTION**

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, HUD and the Comptroller General of the United States or any of their duly authorized representative's access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

*Reference: Title 49 CFR Part 18.36(i)*

**FEDERAL REQUIREMENTS: FR-11**

**CLEAN AIR AND WATER POLLUTION CONTROL**

Contractors and subcontractors agree:

a. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

b. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

c. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;

d. To include or cause to be included in any construction contract or subcontract which exceeds \$ 100,000 the aforementioned criteria and requirements.

*Reference: Clean Air Act (42 U.S.C. 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended, (49 CFR Part 18.36(i) (12) & Section 306 of the Clean Air Act & Section 508 of the Clean Water Act*

**FEDERAL REQUIREMENTS: FR-12**

**ENERGY CONSERVATION REQUIREMENTS**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

*Reference: Title 49 CFR Part 18.36 & Public Law 94-163*



**FEDERAL REQUIREMENTS: FR-13**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND  
VOLUNTARY EXCLUSION**

The Contractor certifies, by acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts.

*Reference: 49 CFR Part 29 & FAA Order 5100.38C*

## **FEDERAL REQUIREMENTS: FR-14**

### **LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

(1) No Federal appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

*Reference: Title 49 CFR Part 20, Appendix A*

**FEDERAL REQUIREMENTS: FR-14**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND  
VOLUNTARY EXCLUSION**

The Contractor certifies, by acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts.

*Reference: 49 CFR Part 29 & FAA Order 5100.38C*

## **FEDERAL REQUIREMENTS: FR-15**

### **ECONOMIC OPPORTUNITIES FOR LOW AND VERY-LOW INCOME PERSONS**

Section 3 Clause.

Housing and Urban Development Act of 1968

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of

section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

§ 135.40 Providing other economic opportunities.

(a) General. In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) Other training and employment related opportunities. Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of “upward mobility”, “bridge” and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) Other business related economic opportunities.

(1) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(2) A section 3 joint venture means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Subpart C [Reserved]

**FEDERAL REQUIREMENTS: FR-16**

**AFFIRMATIVE ACTION REGULATIONS AND PLAN**

An Affirmative Action Plan (AAP) must be submitted by the prime contractor and all subcontractors who have subcontracts of \$10,000 or more on the project. These must be displayed on the project bulletin board or posted on site for employee view and must include the percentage of AAP goals.

**FEDERAL REQUIREMENTS: FR-17**

**WOMEN AND MINORITY OWNED BUSINESSES (M/WBE)**

The Contractor will do the best efforts to afford small business (Section 3 (a) of the Small Business Act), minority businesses enterprises and women business enterprises (51% + owned or controlled by minority group members or women) the maximum practicable opportunity to participate in the performance of this project.

**FEDERAL REQUIREMENTS: FR-18**

**ACCESSIBILITY SECTION 504 COMPLIANCE**

CDBG regulations require adherence to the following regulations: Americans with Disabilities Act (ADA) removal of architectural and communications barriers. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in Federally assisted programs on the basis of disability.



**FEDERAL REQUIREMENTS: FR-19**

**TEXAS ARCHITECTURAL BARRIERS ACT**

Elimination of Architectural Barriers , Government Code Chapter 469.- The intent of this chapter is to ensure that each building and facility subject to this chapter is accessible to and functional for persons with disabilities without causing the loss of function, space, or facilities. A State compliance certificate will be required at completion of project construction for contracts \$50,000 and above; the contractor shall strictly adhere to the construction approved drawings and specifications to accomplish final Certification from the Texas Department of Licensing and Regulations (TDLR.)

**FEDERAL REQUIREMENTS: FR-20**

**DRUG-FREE WORKPLACE REQUIREMENTS**

The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

## **FEDERAL REQUIREMENTS: FR-21**

### **FIELD REQUIREMENTS**

#### **TO BE POSTED:**

All posting documents must be placed in a visible location at the job site on a notice board:

**Davis-Bacon Poster:** The WH Publication 1321 must be placed in a visible location at the job site on a notice board with the Contractor's and sub-contractors' Affirmative Action Plans when applicable.

**Davis-Bacon Prevailing Wage Rates:** The Contractor shall display in a visible location at the job site on a notice board for employee viewing the Federal Wage Rates that apply to each Individual type of project.

**HUD Form 4010 Federal Labor Standards Provisions:** The Contractor must be place in a visible location at the job site on a notice board the requirements of Davis- Bacon, Copeland, and Contract Work Hours and Safety Standards Acts.

**Section 3 Notice:** The Contractor must inform workers of Economic Opportunities for Low and Very-Low Income Persons. Information pertaining to this notice must be placed in a visible location at the job site on a notice board.

**Executive Order 112461:** The Contractor must place in a visible location at the job site on a notice board requirements that set forth the anti-discrimination policy for this project. Parts II & III of this Executive Order are applicable along with Executive Order 11375 concerning employment discrimination on the basis of race, color, sex, religion and national origin.

**Affirmative Action Plan:** An Affirmative Action Plan must be submitted by the prime contractor and all sub-contractors who have sub-contracts of \$10,000.00 or more on the project. These plans must be displayed on the project bulletin board for employee view

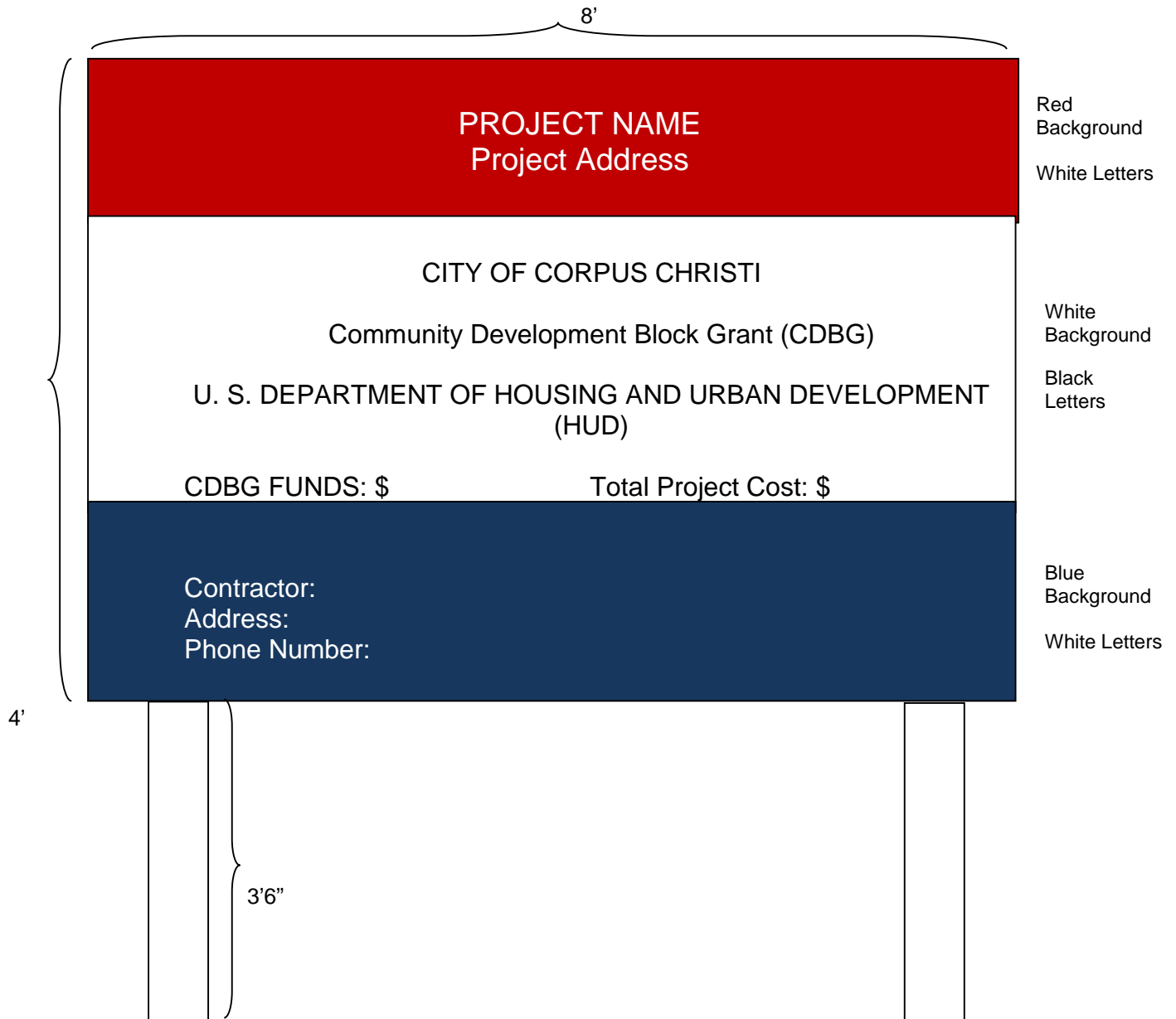
**CDBG Project Sign:** Project Sign: Contractors responsible to install in a visible location as selected by the City, a CDBG Project Sign prior to commencement of construction. Dimensions and design is attached. The field location will be determined prior to work start.

**Compliance Affidavit:** The Contractor must sign and return the attached affidavit to the City prior to beginning work on the project.

**Affirmative Action Plan:** The Contractor must submit and post this plan at the jobsite.

**Affidavit and Waiver of Lien by Contractor:** The Contractor must complete, sign and return this waiver with each request for payment.

# CDBG PROJECT SIGN



Contractor to locate sign where it is most visible to the public and as approved by City

Sign is made from a 4 feet x 8 feet sheet of  $\frac{3}{4}$ " plywood.

Sign should be posted at a minimum of than 3' 6" high from ground level.

## AFFIRMATIVE ACTION PLAN

\_\_\_\_\_ in compliance with Executive Order No. 11246 and Section 3 of the 1968 Housing & Urban Development Act regarding Equal Employment Opportunity hereby gives notice that no person in the United States shall, on the ground of race, color, religion, sex or national origin, be denied employment, and further assurance is also given that \_\_\_\_\_ will immediately take any reasonable measures necessary to effectuate this policy. **Notice of the policy will be placed in plain sight on the job location for the benefit of interested parties, and all subcontractors will be so notified. All Equal Opportunity posters will be displayed as required.**

\_\_\_\_\_ has been appointed as the Equal Employment Opportunity Officer to coordinate company efforts, to advise and assist key personnel and staff, and officially serve as focal point for complaints, inquires, etc. Attachment #2 reflects present employment of the company and percentage goals for projected hiring of lower-income residents, minorities and women.

### **AFFIRMATIVE SUBCONTRACTING**

In accordance with Paragraph 135.70 of Section 3, Attachment #1 reflects anticipated subcontractor(s) needed (by craft) and approximate dollar amounts in each category for the duration of this project. \_\_\_\_\_ will use the HUD Business Registry, as far as possible, in the project area and inform subcontractors of the need to be on the HUD Registry. Specific efforts will be made to contact and use minority-owned businesses in the project area to the maximum extent feasible. Section 3 requirements and language will be in each subcontractor bid and/or proposal for work on this project. Compliance with Section 3 and Executive Order No. 11246 will be required of all subcontractors of \$10,000 or more.

### **UTILIZING LOWER INCOME RESIDENTS, MINORITIES AND WOMEN**

To the maximum extent feasible, \_\_\_\_\_ and any subcontractors will use lower income residents as trainees, apprentices and workers (if qualified) to complete the work on this project. Special outreach efforts will be made to various public and private recruitment sources such as the Texas Employment Commission and Manpower. Special efforts will also be made to recruit minorities and women. \_\_\_\_\_ and all its subcontractors will determine by craft and/or position the approximate manpower needs to complete the project. The manpower needs will be made known to the resources named above. Attachments #2 and #3 shall be completed by \_\_\_\_\_ and each subcontractor to assure that reasonable goals and target dates are a formal part of any contract or subcontract. Attachment #2 indicates current workforce, and Attachment #3 shows projected workforce needs and goals for lower income residents, minorities and women.

### **PROMOTION, DEMOTION, PAY RATES, LAYOFFS, ETC.**

All personnel actions of the company shall be made on a nondiscriminatory basis without regard to race color, religion, sex or national origin. We will inform each subcontractor of these affirmative action requirements and insure compliance.

### **RECORDS AND REPORTS**

\_\_\_\_\_ will submit all reports required in a timely fashion. The Company will also assure that all subcontractors shall submit required reports as needed.

\_\_\_\_\_  
(print) Name of Executive Officer

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(print) Name of EEO Officer

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

## AFFIDAVIT AND WAIVER OF LIEN BY CONTRACTOR

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority in and for said State and  
County, \_\_\_\_\_ (Name/Title) of

\_\_\_\_\_ (Name of Company)  
which firm is hereinafter called "Contractor", who being duly sworn states on oath that he  
has personal knowledge of the following:

1. Contractor has paid in full all debts, obligations, and liabilities (including, without limitation, all debts, obligations, and liabilities for labor, materials, equipment or services, and for all local, state or federal taxes) which have been incurred by Contractor, or which are claimed by others to have been incurred by Contractor, or which have arisen in conjunction with work done, or labor, materials, equipment or services furnished by Contractor under contract with the City of Corpus Christi on the \_\_\_\_\_  
(Project Name)
2. This Affidavit and Waiver is made and given upon and in exchange for final payment of all sums due Contractor by the City of Corpus Christi under the terms of said contract. In consideration therefor, Contractor waives and releases any and all claims and any and all liens or rights to liens which Contractor has or may have against the City of Corpus Christi for amounts due and owing to Contractor by virtue of Contractor furnishing the labor, materials, equipment or services referred to above.

The above statements are made by \_\_\_\_\_ (Name) of  
\_\_\_\_\_ (Name of Company)  
individually and on behalf of the Contractor.

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Company Name)

Sworn to and subscribed before me on \_\_\_\_\_ (Date).

\_\_\_\_\_  
Notary Public  
State of Texas

\_\_\_\_\_  
Commission Expires

END OF FEDERAL REQUIREMENTS